IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1646 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BALVA SEVA CO-OPERATIVE SOCIETY LIMITED

Versus

KISHOR JAYANTILAL

Appearance:

MR DM THAKKAR for Petitioner.

Mr. Uday Joshi for M/S TRIVEDI & GUPTA

for Respondent.

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 19/02/2002

ORAL JUDGEMENT

Heard Mr. D.M. Thakkar, learned advocate appearing for the petitioner and Mr. Uday Joshi, for M/s. Trivedi & Gupta, learned advocate appearing for the respondent. The petitioner has challenged the order dated 4-7-1988 passed by the Labour Court, Rajkot, whereby the Reference which was earlier decided ex-parte on 23-7-1987 was restored to file subject to the condition that the petitioner would pay 50% of backwages

to the respondent-workman. At the time of admission of this petition on 23-6-1992, this Court had passed an order continuing the interim relief against the execution of the impugned order on the condition that the petitioner shall deposit one-half of the amount payable under the impugned order of the Labour Court dated 4th July 1988 on or before 6th July 1992. Pursuant to this order, it was stated by the learned advocate for the petitioner that the said amount was deposited by the petitioner in the Registry of this Court within the time granted by this Court.

2. It is submitted by the learned advocate for the petitioner that the ex-parte award was passed on 23.7.1987 and the same was restored under an order dated 4.7.1988. In all probability, the Reference might have been disposed of by the Labour Court, but neither party before this Court is in a position to state as to whether the Reference is finally disposed of by passing any award by the Labour Court. In any case, since the dispute raised in this petition is in a very narrow compass and the interest of justice would be served if I hold that the amount deposited in this Court, pursuant to the interim order passed by this Court on 23-6-1992, is adjusted against the award passed by the Labour Court, and if not yet passed against the order that may be passed, and ultimately if the respondent-workman succeeds in the said Reference, the amount deposited should be paid to the respondent-workman against the amount awarded, and if the respondent-workman fails in the said Reference, in that case, the amount shall be refunded to the petitioner.

3. I accordingly hold.

4. With these observations, the above petition is disposed of accordingly with no order as to costs. Rule is made absolute to the above extent.

[K.A. Puj, J.]

rmr.